IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

WRIT PETITION NO. 5712 OF 2007

Smt.Rajabai Vithoba Waghmode & Ors..... ....Petitioners
V/s
Sadashiv Vitthal Kamble ....Respondent.

Mr.T.S.Ingale, Adv. For the petitioner.

Mr.S.D.Patil, Adv. For the respondent No.2.

CORAM: A.P.DESHPANDE, J.
20/9/07

PC:

Heard learned counsel for the petitioner. Rejection of an amendment application filed by the plaintiff under Order 6 Rule 17 of Code of Civil Procedure has given rise to the filing of present writ petition. By the proposed amendment in the first place, the petitioner/plaintiff is seeking a declaration that the sale deeds executed by defendant No.1 in favour of defendant No.2 are not binding on plaintiff and in the second place, the petitioner proposes to correct gut number of the property which is subject matter of the suit. The trial Court being of the view that allowing the proposed amendment would change the nature of the suit and defeat the accrued rights in favour of defendant No.2 has rejected the application. The learned counsel for the respondent No.2 submits that the entire evidence of both sides is closed and the matter is fixed for final arguments before the Court below. In this view of the matter, at this stage, I do not propose to interfere with the impugned order. Leaving all questions raised in the petition open to be agitated in the regular civil appeal, if the petitioner is required to file one, writ petition is summarily dismissed.

20.9.07